

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

In re: § CHAPTER 11
KrisJenn Ranch, LLC, §
Debtor § CASE No. 20-50805

KrisJenn Ranch, LLC, KrisJenn Ranch, §
LLC-Series Uvalde Ranch, and KrisJenn §
Ranch, LLC-Series Pipeline ROW, as §
successors in interest to Black Duck §
Properties, LLC, §

Plaintiffs,

v. *sm*

DMA Properties, Inc. and Longbranch §
Energy, LP, §

Defendants. §

DMA Properties, Inc. and Frank Daniel §
Moore, §

*Counter-Plaintiffs and Third-Party
Plaintiff,* §

v. §

KrisJenn Ranch, LLC, KrisJenn Ranch, §
LLC-Series Uvalde Ranch, KrisJenn §
Ranch, LLC-Series Pipeline ROW, Black §
Duck Properties, LLC, Larry Wright, and §
John Terrill, Granstaff, Gaedke, & §
Edgmon, P.C., David Strolle, and §
McLeod Oil, LLC, §

Third-Party/Counterdefendants. §

DMA AND MOORE'S UNOPPOSED MOTION FOR LEAVE TO AMEND

DMA Properties, Inc. (“DMA”) and Frank Daniel Moore move for leave to amend their counterclaims and third-party claims. This motion is unopposed.

BACKGROUND

This case concerns the parties’ respective rights and interests in a pipeline right-of-way. Relevant here, Frank Daniel Moore and Larry Wright were previously 50/50 members (through their entities) of a now-defunct entity, Black Duck, LLC. Black Duck owned the right-of-way that is the subject of this lawsuit. In 2018, Moore resigned from Black Duck and exchanged his 50% interest in Black Duck for, among other things, a 20% net-profits interest in the right-of-way that attaches and runs with the land. DMA—Moore’s entity—received the 20% net profits interest.

In June 2020, DMA and Moore filed their initial counterclaims and third-party claims in this adversary proceeding, including declaratory judgment claims regarding the parties’ respective interests in the right-of-way and another asset. DMA and Moore now seek to amend those claims for two reasons.

First, DMA and Moore seek to amend their claims to add McLeod Oil, LLC (“McLeod”), as a defendant with respect to their declaratory judgment claims. At the time of filing their initial claims, DMA and Moore were unaware that McLeod has a real property interest in the right-of-way. Subsequently, they have learned that McLeod has acquired (a) an option to purchase the right-of-way, and (b) a security interest in the right-of-way. Both of these interests are real property interests, and because McLeod has an interest in the right-of-way, McLeod is a necessary party with respect to the declaratory claims. *See FED. R. CIV. P. 57 Advisory Committee Notes (“[A]ll parties having an interest therein or adversely affected must be made parties . . .”).*

Second, DMA and Moore seek leave to amend their claims to add David Strolle as a defendant with respect to their claims for breach of fiduciary duty, tortious interference, civil conspiracy, and related aiding-and-abetting claims. Strolle—who previously served as the lawyer for Black Duck as well as for the KrisJenn entities—has been before this Court several times already in connection with a subpoena issued by DMA. Testimony by Larry Wright at

his recent deposition—as well as documents produced by Strolle and other parties to this litigation—have shown that Strolle had a more significant role in facilitating Wright’s actions and schemes with respect to the right-of-way than originally anticipated.

ARGUMENT

Rule 15(a)(2) provides that courts should “freely give leave when justice so requires.” FED. R. CIV. P. 15(a)(2). This standard “evinces a bias in favor of granting leave to amend,” and courts may only deny leave when faced with a substantial reason for doing so, such as undue delay, bad faith, dilatory motive, repeated failures to cure deficiencies, futility, or undue prejudice to the opposing party.” *Mayeaux v. La. Health Serv. & Indem. Co.*, 376 F.3d 420, 425 (5th Cir. 2004); *Stripling v. Jordan Prod. Co.*, 234 F.3d 863, 873 (5th Cir. 2000).

Here, there is no substantial reason to deny leave to amend. First, DMA and Moore have not unduly delayed in seeking leave to amend. When this action was filed, DMA and Moore were unaware that McLeod had a real property interest in the right-of-way. Nor were they aware of the extent of David Strolle’s role in facilitating Larry’s Wright’s fraudulent conduct. Second, the other parties to this litigation will not be prejudiced by these amendments. KrisJenn and Wright have both long known of McLeod’s interest in the right-of-way (though they failed to disclose it). Strolle, meanwhile, has been a figure in this litigation for months. In fact, DMA and Moore subpoenaed Strolle just eight days after filing their initial pleadings in this lawsuit. After Larry Wright’s deposition testimony and recent document productions revealed the extent of Strolle’s involvement, DMA and Moore promptly moved to add Strolle as a Defendant in this action.

CONCLUSION

DMA and Moore respectfully request the Court grant their unopposed motion for leave to file amended counterclaims and third-party claims in this action.

Respectfully submitted,

/s/ Christopher S. Johns

Christopher S. Johns
State Bar No. 24044849
Christen Mason Hebert
State Bar No. 24099898
JOHNS & COUNSEL PLLC
14101 Highway 290 West, Suite 400A
Austin, Texas 78737
512-399-3150
512-572-8005 fax
cjohns@johnsandcounsel.com
chebert@johnsandcounsel.com

/s/ Timothy Cleveland

Timothy Cleveland
State Bar No. 24055318
Austin H. Krist
State Bar No. 24106170
CLEVELAND | TERRAZAS PLLC
4611 Bee Cave Road, Suite 306B
Austin, Texas 78746
512-689-8698
tcleveland@clevelandterrazas.com
akrist@clevelandterrazas.com

/s/ Natalie F. Wilson

Natalie F. Wilson
State Bar No. 24076779
ANGLEY & BANACK
745 East Mulberry Avenue, Suite 700
San Antonio, Texas 78212
210-736-6600
210-735-6889 fax
nwilson@langleybanack.com

Andrew R. Seger
State Bar No. 24046815
KEY TERRELL & SEGER
4825 50th Street, Suite A
Lubbock, Texas 79414
806-793-1906
806-792-2135 fax
aseger@thesegerfirm.com

*Attorneys for Frank Daniel Moore and
DMA Properties*

CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2020 a true and correct copy of the foregoing document was transmitted to each of the parties via the Court's electronic transmission facilities and/or via electronic mail as noted below. For those parties not registered to receive electronic service, a true and correct copy of the foregoing document was served by United States Mail, first class, postage prepaid, at the address noted below.

Ronald J. Smeberg Charles John Muller, IV MULLER SMEBERG, PLLC 111 W. Sunset San Antonio, TX 78209 ron@smeberg.com john@muller-smeberg.com <i>Counsel for KrisJenn Ranch, LLC, Krisjenn Ranch, LLC, Series Uvalde Ranch, KrisJenn Ranch, LLC, Series Pipeline Row</i>	Michael Black BURNS & BLACK PLLC 750 Rittiman Road San Antonio, TX 78209 mblack@burnsandblack.com Jeffery Duke DUKE BANISTER MILLER & MILLER 22310 Grand Corner Drive, Suite 110 Katy, TX 77494 jduke@dbmmlaw.com <i>Counsel for Longbranch Energy, LP</i>
Ronald J. Smeberg THE SMEBERG LAW FIRM, PLLC 2010 W Kings Hwy San Antonio, TX 78201-4926 ron@smeberg.com <i>Counsel for Black Duck Properties, LLC</i>	Shane P. Tobin OFFICE OF THE U.S. TRUSTEE 903 San Jacinto Blvd, Room 230 Austin, Texas 78701 shane.p.tobin@usdoj.gov <i>United States Trustee</i>
William P Germany BAYNE, SNELL & KRAUSE 1250 N.E. Loop 410, Suite 725 San Antonio, TX 78209 wgermany@bsklaw.com <i>Counsel for Larry Wright</i>	John Terrill 12712 Arrowhead Lane Oklahoma City, OK 73120 <i>Third Party-Defendant, pro se</i>
Laura L. Worsham JONES, ALLEN & FUQUAY, L.L.P. 8828 Greenville Avenue Dallas, TX 75243 lworsham@jonesallen.com <i>Counsel for McLeod Oil, LLC</i>	

/s/ Christopher S. Johns

Christopher S. Johns